IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

Writ Petition No. 3683 of 2004

Deepak V Parab....Petitioner

vs

The State of Mah and ors..Respondents

Mr A.A Garge for petitioner
Mr. R D Rane AGP for respondents

CORAM:A.P.SHAH & S.C.DHARMADHIKARI JJ.

Dated 20.l0.2004

P.C:

Rule.

2. The learned AGP waives service for respondents. By consent, rule is made returnable forthwith.

3. The petitioner has passed diploma in library science in the year l994. The respondent no. 2 is running two recognised schools viz Mahatma Gandhi Vidyalaya at Ambernath West and Bhausaheb Paranjape Vidyalaya at Ambernath East. The petitioner being fully qualified was appointed in Bhsuaheab Paranjape Vidyalaya as a part time librarian with effect from l3.6.l996. It appears that the post of full time librarian in the Mahatma Gandhi Vidyalaya

fell vacant in January 2003. The petitioner being already working in respondent no. 2 school as part time librarian applied for the said post of full time librarian as he possessed necessary qualifications for the said post. It appears that the State Government has issued a circular dated 25.5.2000 restraining filling up of post of librarian and as per the said circular a part time librarian is liable to be be absorbed as full time librarian. In the light of the said G.R. petitioner applied for the post of a full time librarian. The management of the school, however, instead of absorbing the petitioner in the post of librarian published an advertisement for the post of full time librarian. The petitioner therefore approached this court by filing Writ Petition No. 3690 of 2003 which came up before the Division Bench presided over by the Hon‘ble the Chief Justice on l2.6.2003. The court restrained the respondent no. 2 from making any appointment to the post of full time librarian in Mahatma Gandhi Vidyalaya. The respondent no 2 thereafter appointed the petitioner as a full time librarian on and from 22.7.2003 as directed by the Education Officer (Secondary) ZP Thane. The said writ petition came to be disposed of by the Division Bench on l4.ll.2003 after recording that the

petitioner has been appointed by the respondent no. 2 as a full time librarian. It appears that inspite of the fact that the petitioner is discharging his duties as full time librarian, the authorities have refused to release his salary and, therefore, the petitioner has again approached this court by means of this petition.

3. We have heard the learned counsel appearing for the parties. The learned AGP relying upon the GR dated 25.5.2000 contended that the post of full time librarian ought to have been kept vacant as there are restraints to the appointments of non teaching staff as per GR dated l.3.2000. He contended that as and when the government withdraws the restrictions the petitioner can be absorbed in the same vacant post. We are unable to accept the submission of Mr Rane. The appointment of the petitioner as full time librarian was made pursuant to the order passed by the Education Officer in view of the injunction granted by the Division Bench in Writ Petition No. 3690 of 2003. The said writ petition came to be disposed of after recording that the petitioner has been appointed as full time librarian. At no stage the State Government pointed out that the appointment could not be made without prior approval of the

Government. Therefore it is not now open to the State Government to raise objection to the appointment of the petitioner. We therefore direct the respondent nos.l to 3 to accord approval to the appointment of the petitioner for the post of full time librarian and release his salary forthwith.

4. Rule is made absolute accordingly with no order as to costs.